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September 23, 2009

DOCKET	
08-AFC-9	
DATE	<u>9/23/2009</u>
RECD.	<u>9/23/2009</u>

File No. 039610-0003

VIA FEDEX

CALIFORNIA ENERGY COMMISSION
Attn: Docket No. 08-AFC-9
1516 Ninth Street, MS-4
Sacramento, California 95814-5512

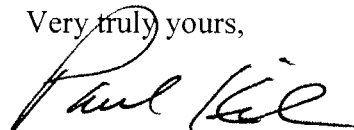
Re: City of Palmdale Hybrid Power Plant Project: Docket No. 08-AFC-9

Dear Sir/Madam:

Pursuant to California Code of Regulations, title 20, Sections 1209, 1209.5, and 1210, enclosed herewith for filing please find Applicant's Petition for Committee Scheduling Conference for the above-referenced Project.

Please note that the enclosed submittal was filed today via electronic mail to your attention and to all parties on the attached proof of service list.

Very truly yours,



Paul E. Kihm
Senior Paralegal

Enclosure

cc: 08-AFC-9 Proof of Service List (w/encl., via e-mail and U.S. Mail)
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STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION

In the Matter of:)	Docket No. 08-AFC-9
)	
APPLICATION FOR CERTIFICATION,)	APPLICANT'S PETITION FOR
FOR THE PALMDALE HYBRID POWER)	COMMITTEE SCHEDULING
PROJECT BY THE CITY OF PALMDALE)	CONFERENCE
)	
)	

Regrettably, on behalf of the City of Palmdale ("Applicant"), we are compelled to submit this petition for another Committee Scheduling Conference to address significant additional anticipated delays in the issuance of the Preliminary Staff Assessment ("PSA") for the Palmdale Hybrid Power Project ("PHPP"). Applicant requests a Committee conference as soon as possible.

The Committee held a Committee Scheduling Conference in this matter at the request of Applicant on July 9, 2009. Applicant requested the July 9, 2009 Committee Scheduling Conference because of significant concerns *at that time* that the preparation of the PSA had fallen substantially behind schedule. The purpose of the conference was to establish, with certainty, the remaining data Staff needed to complete the PSA, and a schedule for completing the PSA.

At the conference, Staff identified specific data that it needed to complete the PSA and indicated that it could complete the PSA within 6-8 weeks of receiving such data. The 6-8 week period was proposed by Staff at the July 9, 2009 conference over Applicant's objection and request that the PSA be issued by the end of August. Staff explicitly stated that it was building into its schedule consideration of furlough days and the number of projects pending in the queue for Staff consideration. The following excerpts are from the transcript of the July 9, 2009 Committee conference:

PRESIDING COMMISSIONER BYRON: Have you also factored in the impact of furloughs into your estimate?

MS. F. MILLER: Yes, I think reasonably, six to eight weeks because we're only talking certain areas that are affected and there are a number of areas outside of the four that we've discussed today that

staff has started to work on their PSA sections. (Transcript of July 9, 2009 Committee Conference, page 111, lines 9-17)

MS. F. MILLER: So that's why I would need to say six to eight weeks because I need to spread it out long enough to be able to insert it into the queue. (Transcript of July 9, 2009 Committee Conference, page 112, lines 22-25)

Presumably based on these representations by Staff, the Committee issued a Revised Committee Schedule on July 23, 2009 requiring the PSA to be completed "6 – 8 weeks after all necessary information mentioned at the July 9, 2009 Committee Conference is received by Staff." A follow-up telephonic workshop was held by Staff and Applicant on July 28, 2009. The purpose of the workshop was only to address details associated with the original data requests raised at the Committee conference. Nevertheless, Applicant agreed to provide Staff with additional new information that was requested during the telephonic workshop.

Applicant provided initial responses to the conference data requests on July 23, 2009. Applicant filed another submittal dated July 31, 2009 following the telephonic workshop. Thus, the 6-8 week PSA schedule was triggered on July 31, 2009, making September 25, 2009 the latest completion date for the PSA. Recently, Staff informed Applicant that the PSA could not be completed until November 16, 2009. This represents an unexplainable and unacceptable delay.

Notwithstanding that the Revised Committee Schedule issued on July 23, 2009 was premised entirely on Staff's desired schedule, as opposed to that proposed by Applicant, Staff now indicates that it has no intention of complying with the Committee's Order, or even coming close. Applicant appreciates Staff's burdens given mandated furlough days and the unprecedented volume of pending Applications for Certification. However, at Staff's request, the Revised Committee Schedule accounted for such factors. If the orders of the Committee are to have any meaning at all, then Staff must be held to comply with them, particularly when the order is based on commitments made by the Staff itself.

The delays associated with Staff review of the PHPP, which includes a renewable energy component, and is virtually identical to a project previously reviewed by Staff (Victorville 2 Hybrid Power Project), are completely unjustified. We are approaching the one-year anniversary of the PHPP AFC being deemed data adequate (October 8, 2009), and Staff has yet to produce even a PSA. These scheduling delays have materially increased the City of Palmdale's expenses and are threatening its ability to obtain federal stimulus funding for the PHPP. As a result, Applicant respectfully requests a new schedule that sets the PSA completion date no later than October 15, 2009. To address these urgent scheduling concerns, Applicant requests a date for a Committee Scheduling Conference as soon as possible.

DATED: September 23, 2009

Respectfully submitted,

/S/ MICHAEL J. CARROLL

Michael J. Carroll
LATHAM & WATKINS LLP
Counsel to Applicant

**STATE OF CALIFORNIA
ENERGY RESOURCES
CONSERVATION AND DEVELOPMENT COMMISSION**

In the Matter of:)	Docket No. 08-AFC-9
)	
Application for Certification,)	PROOF OF SERVICE
for the CITY OF PALMDALE HYBRID)	
POWER PLANT PROJECT)	(Revised July 30, 2009)
)	
)	

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

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PALMDALE HYBRID POWER PROJECT
CEC Docket No. 08-AFC-09

DECLARATION OF SERVICE

I, Paul Kihm, declare that on September 23, 2009, I served and filed copies of the attached:

APPLICANT'S PETITION FOR COMMITTEE SCHEDULING CONFERENCE

to all parties identified on the Proof of Service List above in the following manner:

California Energy Commission Docket Unit

- ☒ Transmission via electronic mail and by depositing the original with FedEx overnight mail delivery service at Costa Mesa, California, with delivery fees thereon fully prepaid and addressed to the following:

CALIFORNIA ENERGY COMMISSION

Attn: DOCKET NO. 08-AFC-09

1516 Ninth Street, MS-4

Sacramento, California 95814-5512


docket@energy.state.ca.us

For Service to All Other Parties

- ☒ Transmission via electronic mail to all email addresses on the Proof of Service list; and
- ☒ by depositing one paper copy with the United States Postal Service via first-class mail at Costa Mesa, California, with postage fees thereon fully prepaid and addressed as provided on the Proof of Service list to those addresses **NOT** marked "email preferred."

I further declare that transmission via electronic mail and U.S. Mail was consistent with the requirements of California Code of Regulations, title 20, sections 1209, 1209.5, and 1210.

I declare under penalty of perjury that the foregoing is true and correct. Executed on September 23, 2009, at Costa Mesa, California.



Paul Kihm